

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

RICHARD ROGERS, individually, and on
behalf of similarly situated individuals,

Plaintiff,

v.

BNSF RAILWAY COMPANY,

Defendant.

Case No. 1:19-cv-03083

Honorable Matthew F. Kennelly

**DEFENDANT BNSF RAILWAY COMPANY’S MOTION TO DISMISS
FIRST AMENDED COMPLAINT PURSUANT TO RULE 12(b)(6)**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant BNSF Railway Company (“BNSF”) respectfully moves this Court for an order dismissing Plaintiff’s First Amended Class Action Complaint (ECF No. 18). In support of its motion, BNSF incorporates its Memorandum of Law filed contemporaneously herewith.

WHEREFORE, BNSF respectfully requests that the Court grant its motion and enter an order dismissing Plaintiff’s First Amended Class Action Complaint with prejudice and granting such other relief as the Court deems appropriate.

Dated: July 26, 2019

Respectfully submitted,

BNSF RAILWAY COMPANY

By: /s/ Elizabeth B. Herrington

Elizabeth B. Herrington

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CERTIFICATE OF SERVICE

I, Elizabeth B. Herrington, hereby certify that on this 26th day of July, 2019, I caused a copy of the foregoing DEFENDANT BNSF RAILWAY COMPANY'S MOTION TO DISMISS FIRST AMENDED COMPLAINT PURSUANT TO RULE 12(b)(6) to be served upon all counsel of record via the Court's CM/ECF system.

/s/ Elizabeth B. Herrington

Elizabeth B. Herrington